

Remarks

In reply to the Office Action dated November 15, 2005, requesting an election of one invention to prosecute in the above-referenced application, Applicants provisionally elect to prosecute the invention of Group I, represented by claims 86-132 and 159-160. This election is made without prejudice or disclaimer to the other claims or inventions disclosed, and Applicants reserve the right to file one or more divisional/continuation applications to the subject matter of the nonelected claims.

The election is made with traverse. The claims of Groups I and II are all related as directed either to methods of making recombinant antibodies having increased Fc mediated cellular cytotoxicity or to their use in methods of lysing target cells. Even assuming, *arguendo*, that Groups I and II represent distinct or independent inventions, Applicants submit that it would not impose a serious burden on the examiner to search and examine the subject matter of all of the groups together.

In order for restriction to be proper, two criteria must be met. First, the claims must be directed to independent and distinct inventions. Second, there must be a *serious burden* on the Examiner if restriction is not required. *See* Manual of Patent Examining Procedure (MPEP) at § 803 (8th Ed., rev. 3, August 2005) (emphasis added).

Applicants respectfully submit that a search of the art for Group I would likely find art relevant to the claims of Group II, and *vice versa*, since the important feature in both Groups is that the antibodies have been glycoengineered to having increased Fc mediated cellular cytotoxicity and Fc receptor binding. Therefore, it would be a simple matter for the Examiner to search and examine the claims together. Accordingly,

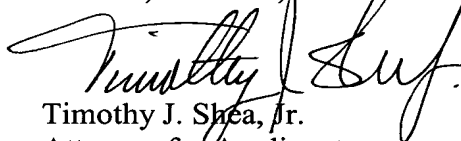
reconsideration and withdrawal of the restriction requirement as between Groups I and II
is respectfully requested

Conclusion

Applicants believe the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,

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